

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
Michael Hartzmark	8	Already admitted.		
Michael Hartzmark	12	Already admitted.		
Michael Hartzmark	13	Already admitted.		
Michael Hartzmark	15	Already admitted.		
Michael Hartzmark	17	Already admitted.		
Michael Hartzmark	23	Already admitted.		
Michael Hartzmark	26	<b>This exhibit has not been admitted into evidence. Dr. Hartzmark lacks the requisite personal knowledge to lay any foundation for any document not already in evidence.</b> Fed. R. Evid. 401, 402, 403, 602.	Exhibit 26 is a press release issued by the Board of Directors on August 8, 2018. Exhibit 26 is the same press release as Exhibit 130 which has already been admitted into evidence. As these are the same exact press releases, Defendants' objections should be overruled. To the extent the Court does not allow Exhibit 26 into evidence, Plaintiff will use Exhibit 130.	O
Michael Hartzmark	33	See objection to Hartzmark exhibit 26.	Exhibit 33 is an August 8, 2018 analyst report discussing the August 7, 2018 tweets. The Court has repeatedly held analyst reports from the class period are relevant and not prejudicial. ECF No. 506-1; 1/18 Tr. 286-87 (noting that analyst reports during the class period and in close proximity to the class period are relevant and admissible).  There is also adequate foundation and the documents are admissible under 703. This is a self-authenticating analyst report under FRE 902(6). The	O

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			<p>report is referenced in Dr. Hartzmark's report and he will testify that he "has been made aware of or personally observed" the report. FRE 703. Additionally, Dr. Hartzmark will testify that "experts in the particular field would reasonably rely" on these "kind of facts or data in forming an opinion on the subject." FRE 703. On January 18, 2023, the Court indicated that what expert witnesses "say they relied upon is, itself, those items are not <b><i>automatically</i></b> admitted. They are not evidence until they are <b><i>independently</i></b> admitted, <b><i>unless</i></b> there is a special motion to admit those, for instance, under 703." 1/18 Tr. 287:8-10 (emphasis added). Plaintiff hereby moves under 703 that this analyst report, issued during the Class Period, should be admitted under 703 as its "probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect." FRE 703. Here, one of the main issues remaining is whether the August 7, 2018 tweets were material. The effect of Mr. Musk's tweets on the analyst goes directly to what a reasonable investor would consider material, as the analyst is a proxy for the market. Therefore, the probative value of the analyst reports will undoubtedly help the jury understand Dr. Hartzmark's opinion regarding the materiality of the tweets, especially since he relied on these documents in forming his opinion. Further, given the importance of materiality and the market's perception of the tweets, the prejudicial effect of the analyst reports is slim, as they are statements by the market made during the Class Period. Plaintiff will also "independently" seek to admit each analyst report</p>	

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			that Dr. Hartzmark reviews on his direct under FRE 703. 1/18 Tr. 287:8-10.	
Michael Hartzmark	53	Already admitted.		
Michael Hartzmark	58	Already admitted.		
Michael Hartzmark	150	Already admitted.		
Michael Hartzmark	151	Already admitted.		
Michael Hartzmark	171	Already admitted.		Redacted version per Court order.
Michael Hartzmark	322	See objection to Hartzmark exhibit 26.	Exhibit 225 and 322 are both copies of the Financial Times article dated August 7, 2018 that has been presented and requested to be moved into evidence. Plaintiff will meet and confer with Defendants about which Financial Times Article has been admitted, if any.  <i>See Exhibit 33 response.</i>	O
Michael Hartzmark	337	Already admitted.		
Michael Hartzmark	338	See objection to Hartzmark exhibit 26.	This is an August 11, 2018 news article published by Reuters. It is self-authenticating, relevant, and admissible under 702. Dr. Hartzmark will set the required foundation under 702.  <i>See Exhibit 33 response.</i>	O
Michael Hartzmark	375-299-452	This exhibit is an appendix to Dr. Hartzmark's expert report containing a list of articles and analyst report headlines, which are hearsay. Fed. R. Evid. 801. Additionally,	Appendix 14 to Dr. Hartzmark's November 10, 2021 is clearly admissible under FRE 1006. FRE 1006 provides that a "proponent may use a summary, chart or calculation to prove the content of voluminous	W

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		<p>numerous headlines are incomplete, contain improper opinion testimony, and are unduly prejudicial to Defendants. Fed R. Evid. 403, 701. <b>Indeed, certain headlines have already been excluded by the Court under Fed. R. Evid. 403. Dkt. 506-1 at 12 (excluding August 8 New York Times Article because "the headline is inflammatory").</b> Further, Dr. Hartzmark did not rely upon most of the articles contained in the appendix, did not connect them to any decline in Tesla's stock price, and does not claim that each article contains corrective information. The appendix also contains opinions and calculations conducted by Dr. Hartzmark, which are hearsay. Fed. R. Evid. 801. Further, the list is not relevant to any issue the jury must decide, will therefore confuse the jury, waste time, and cause Defendants' unfair prejudice. Fed. R. Evid. 403. Finally, Dr. Hartzmark's list is not a "summary, chart, or calculation" that is being used "to prove the content of voluminous writings, recordings, or photographs" Under Fed. R. Evid. 1006. Rather, it is inadmissible hearsay. <i>See, e.g., Loc. 159, 342, 343 &amp; 444 v. Nor-Cal Plumbing, Inc.</i>, 189 F.3d 473 (9th Cir. 1999) (finding error to admit summary into evidence where summary contained both admissible and inadmissible hearsay).</p>	<p>writings, recordings, or photographs that cannot be conveniently examined in court." FRE 1006. Every article listed in the 153 pages of Appendix 14 clearly cannot be conveniently examined in court. Additionally, the headlines in Appendix 14 are not being used for the truth of the matter asserted. Rather, as indicated in Dr. Hartzmark's report, <b>Dr. Hartzmark's report relies on Appendix 14 to show that "the predominant news coverage over the Class Period related to the going private transaction, with approximately 70% of the article titles related in some way to the going private transaction or its funding."</b> Report at 31. This is clearly proper under FRE 1006.</p> <p>Further, despite not being used for the truth of the matter asserted, the articles would independently be admissible as the Court has already ruled that articles and analyst reports during the class period can "be introduced to show the effect on the listener (i.e. the market)". <i>See Baker v. SeaWorld Ent., Inc.</i>, 423 F. Supp. 3d 878, 927 (S.D. Cal. 2019)(overruling hearsay objection to articles and analyst reports that were offered for the purpose of "demonstrat[ing] how the market understood and interpreted [defendant's] disclosure"); <i>United States v. Holmes</i>, No. 18-cr-00258-EJD-1, 2021 WL 2044470, at *26 (N.D. Cal. May 22, 2021) (admitting New Yorker article to show its effect on readers). Therefore, the list of headlines is proper under 1006.</p> <p>Additionally, the New York Times article "Did Elon Musk Violate Securities Laws With Tweet About</p>	

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			<p>Taking Tesla Private?" that the Court deemed prejudicial only appears twice in the entire 153 pages of Appendix 14. While Plaintiff is not seeking to independently admit the article, the minimal reference to the article in Appendix 14 is slim. To the extent the Court is inclined to sustain this objection due to the two references of the headline, Plaintiff is willing to redact the headline.</p> <p>Further, the headlines are not inadmissible under 701, as again, they are simply being used to show that "70% of the article titles related in some way to the going private transaction or its funding." Report at 31. These documents are not being used to actually prove that Mr. Musk was taking Tesla private, committed securities fraud, or any other reason.</p> <p>Additionally, the "calculations" included in Appendix 14 that shows the "voluminous writings" effect on the stock price is appropriate under 1006 and not inadmissible hearsay. Again, Plaintiff is not offering the calculations for the truth of the matter asserted, but to show the effect on listener. FRE 1006 explicitly provides that "the proponent may use a . . . calculation to prove the content of voluminous writings." Appendix 14 contains public data that relates to the date of the articles and the stock price response. This data is public information and not reasonably disputed. <i>Sec. &amp; Exch. Comm'n v. Sabrdaran</i>, 252 F. Supp. 3d 866, 886–87 (N.D. Cal. 2017) (data about each spread bet and hedge transaction was admissible and any information added merely clarifies the information); where</p>	

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			<p>Defendants had the “opportunity to verify the reliability and accuracy of the summary prior to trial,” “they have not shown the admission of this evidence requires a new trial”. <i>United States v. Sogbein</i>, No. CR 12-00054-1 JSW, 2014 WL 12691533, at *10 (N.D. Cal. May 27, 2014), <i>aff'd sub nom. United States v. Adebimpe</i>, 649 F. App'x 449 (9th Cir. 2016); <i>Avila v. Willits Env't Remediation Tr.</i>, No. C 99-3941 SI, 2009 WL 1813125, at *28 (N.D. Cal. June 18, 2009), <i>aff'd</i>, 633 F.3d 828 (9th Cir. 2011) (“the charts are summaries of voluminous documents”). Therefore, Defendants’ case is inapplicable. <i>See Loc. 159, 342, 343 &amp; 444 v. Nor-Cal Plumbing, Inc.</i>, 189 F.3d 473 (9th Cir. 1999) (where the party could not prove a business record, “it was error to admit [the summaries] into evidence.”).</p> <p>The list of class period headlines is clearly relevant to the market’s reaction and perception of Mr. Musk’s tweets.</p>	
Michael Hartzmark	426	See objection to Hartzmark exhibit 26. Further, Dr. Hartzmark did not list this article as one of the news articles he relied upon. <i>See</i> Ex. 375-180-183.	<p>This is a class period New York Times article dated August 15, 2018 titled “A Question for Tesla’s Board: What Was Elon Musk’s Mental State?” Defendants contend that the August 16, 2018 New York Times article the following day only decreased the market because it was about Mr. Musk’s mental health. However, Defendants completely ignore that this information was disclosed the day before with no change in the stock price. <b><i>Precluding this exhibit would severely prejudice Plaintiff</i></b> and his ability to rebut Defendants’ theory that the August 16, 2018</p>	O

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			<p>article only moved the stock price because it discussed Mr. Musk's mental health.</p> <p><b>Importantly</b>, the article is referenced in Dr. Hartzmark's report, appendix 14, and <b>he will testify</b> that he "has been made aware of or personally observed" the article. FRE 703. Additionally, Dr. Hartzmark will testify that "experts in the particular field would reasonably rely" on these "kind of facts or data in forming an opinion on the subject." FRE 703. Therefore, this article is proper under 703.</p> <p>See Exhibit 33 response re 703.</p>	
Michael Hartzmark	429	See objection to Hartzmark exhibit 26.	<p>This is an August 13, 2018 analyst report. It is self-authenticating, relevant, and admissible under 702. Dr. Hartzmark will set the required foundation under 702.</p> <p>See Exhibit 33 response.</p>	O
Michael Hartzmark	521	<p>Fed. R. Evid. 403, 602, 701, 702, 801, 901; <i>see also</i> objection to Hartzmark exhibit 26.</p> <p>This exhibit is a video not referenced in Dr. Hartzmark's report, which contains hearsay and is not properly authenticated. <i>United States v. Deputee</i>, 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i>, 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i>, 2016 WL 11759093, at *3 (C.D.</p>	<p>Exhibit 521 is a CNBC news report video that is not being used for the truth of the matter asserted. It is self-authenticating under 902(6) and also appropriate under 703. Dr. Hartzmark will personally testify that he was "made aware of or personally observed" the video. FRE 703. Additionally, Dr. Hartzmark will testify that "experts in the particular field would reasonably rely" on these "kind of facts or data in forming an opinion on the subject." FRE 703. Therefore, this video is proper under 703.</p> <p>Additionally, Dr. Hartzmark explicitly states that he relied on this video in forming his opinion. His report indicates that he relied on all material in Appendix 6</p>	O

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		<p>Cal. June 28, 2016) (similar). Further, the video contains improper (and inflammatory) legal conclusions made by reporters, which the Court has already ruled are unfairly prejudicial and inadmissible. (ECF No. 506-1 at 12 (<b>"there are significant Rule 403 issues [to the article in question]. The headline is inflammatory and goes close to the ultimate issue in the case. To the extent that Dr. Hartzmark reviewed and relied upon the article in forming his opinions, Dr. Hartzmark may <u>describe it</u>. But the article itself is <u>inadmissible</u> under Rule 403."</b>)).</p>	<p>of his report. <i>See</i> 375-183 (indicating he relied on the articles in Appendix 6). Therefore, given the fact that the video is listed in Appendix 6 of Dr. Hartzmark's report, it is proper. <i>See</i> 375-262 (Appendix 6 that includes the CNBC Video).</p> <p>Nor is it unduly prejudicial to Defendants. Plaintiff has edited this video to exclude any mention of "market manipulation" or any potential legal conclusions. It is therefore not unduly prejudicial. The reason Defendants object to this video is because the news reporter indicates that the "big number" to him is "funding secured". Given Dr. Hartzmark will testify that he relied on this video, precluding the video from evidence would severely prejudice Plaintiff. Defendants argue that Dr. Hartzmark did not disaggregate the tweets and that "Funding secured" was not material. The video is a clear market reaction to Mr. Musk's tweets and is properly admitted.</p> <p>Given the video is not being used for the truth of the matter asserted, but to show the effect on listener, the video is not inadmissible hearsay.</p> <p>Defendants' cases on this point are not on point and easily distinguishable. <i>See United States v. Deputee</i>, 349 F. App'x 227, 229 (9th Cir. 2009) (excluding expert testimony because "the judge had doubts as to whether there was a factual basis for claiming a "false confession," and the judge determined that Dr. Ofshe's testimony would not be helpful to the jury."); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i>, No. CV 01-</p>	



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			02766 FMC MANX, 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (Dr. Hartzmark has opined about the materiality of the tweets in his report and deposition therefore admissible under <i>Bollore</i> ); <i>R.D.C. v. Cnty. of Los Angeles, et al. Additional Party Names: Booker Waugh, Jerry Powers, Les Smith</i> , No. CV 14-6014 DMG (ASX), 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (“previously undisclosed expert opinions of Janiece Turnbull relating to damages”).  See also Exhibit 33 response.	
Michael Hartzmark	535	See objection to Hartzmark exhibit 26.	This is an August 27, 2018 analyst report relied on Dr. Hartzmark in forming his opinion and consequential damages. He will testify that he has seen and relied on it and that it is proper under 703. While this report is after the class period, it goes directly to Dr. Hartzmark's opinion on consequential damages and does not include any expert opinion. Rather, it shows the market's reaction to consequential reputational harm.  See Exhibit 33 response.	S. Professor Hartzmark can testify as to the bases of his opinion, including this exhibit if he relied on it, but it is not independently admissible.
Michael Hartzmark	539	See objection to Hartzmark exhibit 26.	This is an August 26, 2018 analyst report relied on Dr. Hartzmark in forming his opinion and consequential damages. He will testify that he has seen and relied on it and that it is proper under 703. While this report is after the class period, it goes directly to Dr. Hartzmark's opinion on consequential damages and does not include any expert opinion. Rather, it shows the market's reaction to consequential reputational harm.	S same as Ex. 535.

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			See Exhibit 33 response.	
Michael Hartzmark	543	See objection to Hartzmark exhibit 26.	This is an August 8, 2018 article relied on Dr. Hartzmark in forming his opinion and consequential damages. He will testify that he has seen and relied on it and that it is proper under 703.  See Exhibit 33 response.	O
Michael Hartzmark	552	See objection to Hartzmark exhibit 26.	This is an August 7, 2018 article relied on Dr. Hartzmark in forming his opinion. He will testify that he has seen and relied on it and that it is proper under 703.  See Exhibit 33 response.	O
Michael Hartzmark	553	See objection to Hartzmark exhibit 26.	This is an August 7, 2018 article relied on Dr. Hartzmark in forming his opinion. He will testify that he has seen and relied on it and that it is proper under 703.  See Exhibit 33 response.	O
Michael Hartzmark	565	See objection to Hartzmark exhibit 26.	This is an August 8, 2018 article relied on Dr. Hartzmark in forming his opinion and consequential damages. He will testify that he has seen and relied on it and that it is proper under 703.  See Exhibit 33 response.	O
Michael Hartzmark	566	See objection to Hartzmark exhibit 26.	This is an August 8, 2018 article relied on Dr. Hartzmark in forming his opinion. He will testify that he has seen and relied on it and that it is proper under 703.  See Exhibit 33 response.	O
Michael Hartzmark	570	See objection to Hartzmark exhibit 26.	This is an August 8, 2018 article relied on Dr. Hartzmark in forming his opinion. He will testify that	O

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			he has seen and relied on it and that it is proper under 703.  See Exhibit 33 response.	
Michael Hartzmark	572	See objection to Hartzmark exhibit 26.	This is an August 9, 2018 article relied on Dr. Hartzmark in forming his opinion and consequential damages. He will testify that he has seen and relied on it and that it is proper under 703.  See Exhibit 33 response.	O
Michael Hartzmark	594	See objection to Hartzmark exhibit 26.	This is an August 13, 2018 analyst report relied on Dr. Hartzmark in forming his opinion and consequential damages. He will testify that he has seen and relied on it and that it is proper under 703.  See Exhibit 33 response.	O
Michael Hartzmark	595	See objection to Hartzmark exhibit 26.	This is an August 27, 2018 analyst report relied on Dr. Hartzmark in forming his opinion and consequential damages. He will testify that he has seen and relied on it and that it is proper under 703. While this report is after the class period, it goes directly to Dr. Hartzmark's opinion on consequential damages and does not include any expert opinion. Rather, it shows the market's reaction to consequential reputational harm.  See Exhibit 33 response.	S. Same as 535.
Michael Hartzmark	651	See objection to Hartzmark exhibit 26. Further, this exhibit is an email with an analyst report, containing imbedded hearsay and lacking proper authentication. Fed. R. Evid. 403, 801. The analyst report is also an improper lay opinion. Fed. R. Evid. 701.	Exhibit 651 is an email that contains an August 9, 2018 analyst report that Dr. Hartzmark explicitly relied upon. His report indicates that he relied on all material in Appendix 6 of his report. See 375-183 (indicating he relied on the articles in Appendix 6). Therefore, given the fact that the video is listed in	R. Is P only seeking to admit the report or the email as well?

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			<p>Appendix 6 of Dr. Hartzmark's report, it is proper. See 375-264 (Appendix 6 that includes the August 9 analyst report).</p> <p>The sole fact that the analyst report is within an email chain does not render it inadmissible hearsay as Plaintiff is not introducing it for the truth of the matter asserted. Nor is Plaintiff relying on the analyst report for its purported "opinion".</p> <p>Rather, this analyst report is proper under 703.</p> <p>See Exhibit 33 response.</p>	
Michael Hartzmark	671	See objection to Hartzmark exhibit 26. Further, this exhibit is an article not referenced in Dr. Hartzmark's report, which contains hearsay and is not properly authenticated. Fed. R. Evid. 403, 602, 701, 702, 801, 901; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	Withdrawn.	W
Michael Hartzmark	672	See objection to Hartzmark exhibit 26.	This is an August 7, 2018 article relied on Dr. Hartzmark in forming his opinion. He will testify that he has seen and relied on it and that it is proper under 703.	O

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			See Exhibit 33 response.	
Michael Hartzmark	673	See objection to Hartzmark exhibit 26.	Withdrawn but reserved for redirect.	W
Michael Hartzmark	674	See objection to Hartzmark exhibit 26. Further, this exhibit is an article not referenced in Dr. Hartzmark's report, which contains hearsay and is not properly authenticated. Fed. R. Evid. 403, 602, 701, 702, 801, 901; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	Withdrawn but reserved for redirect.	W
Michael Hartzmark	675	See objection to Hartzmark exhibit 26. Further, this exhibit is a letter not referenced in Dr. Hartzmark's report, which contains hearsay and is not properly authenticated. Fed. R. Evid. 403, 602, 701, 702, 801, 901; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	Withdrawn but reserved for redirect.	W

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Michael Hartzmark	676	Defendants do not object to the extent that Dr. Hartzmark's resume is used on direct or shown as a demonstrative, but it may not be admitted as evidence. Fed. R. Evid. 103(d).	The Court has already held that it is appropriate to admit CVs into evidence if they are adopted by the witness during testimony. ECF No. 606-1 ("O (if adopted by witness during testimony)"). This is Doctor Hartzmark's C.V., as initially annexed to his report exchanged in discovery. Plaintiff does <i>not</i> seek to introduce the entire report but only the attached C.V.	O if Professor Hartzmark incorporates the CV into his testimony.
Michael Hartzmark	721	See objection to Hartzmark exhibit 26.	This is an August 7, 2018 analyst report relied on Dr. Hartzmark in forming his opinion. He will testify that he has seen and relied on it and that it is proper under 703.  See Exhibit 33 response.	O
Michael Hartzmark	728	See objection to Hartzmark exhibit 26.	This is an August 8, 2018 analyst report relied on Dr. Hartzmark in forming his opinion. He will testify that he has seen and relied on it and that it is proper under 703.  See Exhibit 33 response.	O
Michael Hartzmark	763	See objection to Hartzmark exhibit 26.	This is an August 12, 2018 article relied on Dr. Hartzmark in forming his opinion. He will testify that he has seen and relied on it and that it is proper under 703.  See Exhibit 33 response.	O
Michael Hartzmark	Slide 1	This slide shows a document not in evidence, which Plaintiff may not show to the jury until such exhibit has been admitted. Fed. R. Evid. 103(d).	Slide 1 contains an analyst report discussing the August 7, 2018 tweets. The Court has repeatedly held analyst reports from the class period are relevant and not prejudicial. ECF No. 506-1; 1/18 Tr. 286-87 (noting that analyst reports during the class period and in close proximity to the class period are relevant and admissible).	Slides can be shown as demonstratives. Only slides with numerical tables and charts may be

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			<p>There is also adequate foundation for the slide and the documents are admissible under 703. This is a self-authenticating analyst report under FRE 902(6). The report is referenced in Dr. Hartzmark's report and he will testify that he "has been made aware of or personally observed" the report. FRE 703.</p> <p>Additionally, Dr. Hartzmark will testify that "experts in the particular field would reasonably rely" on these "kind of facts or data in forming an opinion on the subject." FRE 703. On January 18, 2023, the Court indicated that what expert witnesses "say they relied upon is, itself, those items are not <i>automatically</i> admitted. They are not evidence until they are <i>independently</i> admitted, <i>unless</i> there is a special motion to admit those, for instance, under 703." 1/18 Tr. 287:8-10 (emphasis added). Plaintiff hereby moves under 703 that this analyst report, issued during the Class Period, should be admitted under 703 as its "probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect." FRE 703. Here, one of the main issues remaining is whether the August 7, 2018 tweets were material. The effect of Mr. Musk's tweets on the analyst goes directly to what a reasonable investor would consider material, as the analyst is a proxy for the market. Therefore, the probative value of the analyst reports will undoubtedly help the jury understand Dr. Hartzmark's opinion regarding the materiality of the tweets, especially since he relied on these documents in forming his opinion. Further, given the importance of materiality and the market's perception of the</p>	<p>admitted if incorporated by reference into expert's testimony. Other slide with narrative and argument will not be admitted.</p>

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			tweets, the prejudicial effect of the analyst reports is slim, as they are statements by the market made during the Class Period. Plaintiff will also "independently" seek to admit each analyst report that Dr. Hartzmark reviews on his direct under FRE 703. 1/18 Tr. 287:8-10.	
Michael Hartzmark	Slide 2	See objection to Hartzmark Slide 1.	See response to Defendants' objection to Hartzmark Slide 1.	R
Michael Hartzmark	Slide 3	See objection to Hartzmark Slide 1.	See response to Defendants' objection to Hartzmark Slide 1.	R
Michael Hartzmark	Slide 4	See objection to Hartzmark Slide 1.	See response to Defendants' objection to Hartzmark Slide 1.	R
Michael Hartzmark	Slide 5	See objection to Hartzmark Slide 1.	See response to Defendants' objection to Hartzmark Slide 1.	R
Michael Hartzmark	Slide 6	See objection to Hartzmark Slide 1.	See response to Defendants' objection to Hartzmark Slide 1.	R
Michael Hartzmark	Slide 7	See objection to Hartzmark Slide 1.	See response to Defendants' objection to Hartzmark Slide 1.	R
Michael Hartzmark	Slide 8	See objection to Hartzmark Slide 1.	See response to Defendants' objection to Hartzmark Slide 1.	R
Michael Hartzmark	Slide 9	See objection to Hartzmark Slide 1.	See response to Defendants' objection to Hartzmark Slide 1.	R
Michael Hartzmark	Slide 10	See objection to Hartzmark Slide 1.	See response to Defendants' objection to Hartzmark Slide 1.	R
Michael Hartzmark	Slide 11	This is a summary/chart/calculation shown to prove the content of Dr. Hartzmark's report. It may not be shown to the jury absent a proper foundation establishing that the information shown is what Plaintiff purports it to be. Fed. R. Evid. 103, 1006. To the extent a proper foundation is laid, this demonstrative is not evidence, cannot be	The table in Slide 11 is a summary chart, which provides the contents of voluminous calculations that cannot be conveniently presented in court. Dr. Hartzmark will testify that he has personal knowledge of the summary chart, the data upon which relied, and the calculation he performed to generate this slide. Therefore, it qualifies as an illustrative exhibit pursuant to Fed. R. Evid. 1006. Plaintiff disclosed the underlying data to Defendants	R



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		admitted as an exhibit, and cannot be provided to the jury.	<p>in November 2021. <i>Cf. Siqueros v. General Motors, LLC</i>, 16-cv-07244-EMC September 19, 2022 Tr. at 374:13-21 (“If the underlying data has been produced and is voluminous, unless there's some indication of unreliability, that normally fits a 1006. The fact that it's not been -- you know, if this is a surprise, I'm not sure how much of that's is going to -- that's what I'm going to want to hear about.”)</p> <p>Defendants do not dispute that the underlying materials are admissible and do not argue that they were not disclosed. Courts in the 9th Circuit regularly admit similar illustrative exhibits. <i>see United States v. Rizk</i>, 660 F.3d 1125, 1130 (9th Cir. 2011) (“[T]he district court did not abuse its discretion in admitting the government’s summary charts under Rule 1006. The underlying materials for the charts were standard real estate records that were both admissible in evidence and made available to Rizk for inspection.”); <i>United States v. Stefani</i>, 338 F. App’x 579, 580-81 (9th Cir. 2009) (Trial court did not abuse discretion by admitting evidence relying on charts and summarizing data); <i>In re Oracle Corp. Sec. Litig.</i>, 2009 WL 1709050, at *6, n 9 (N.D. Cal. June 19, 2009) <i>aff’d sub nom. In re Oracle Corp. Sec. Litig.</i>, 627 F.3d 376 (9th Cir. 2010) (Chart containing summary of forecasts and analyst projections was a proper summary of voluminous evidence under Fed. R. Evid. 1006); <i>Sec. &amp; Exch. Comm’n v. Sabrdaran</i>, 252 F. Supp 3d. 866, 886-87 (N.D. Cal 2017) (“[T]he underlying [data] about each spread bet and hedge transaction was admissible as business records.</p>	

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			<p>The limited additional information that IG Index added that was not part of the business record merely clarifies the information.”).</p> <p>This table is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Hartzmark's testimony. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.</p> <p>For all of these reasons, it should be admitted into evidence.</p>	
Michael Hartzmark	Slide 12	See objection to Hartzmark Slide 11.	<p>See Plaintiff's response to Defendants' objections to Slide 11.</p> <p>This table is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays Prof. Hartzmark's testimony regarding the artificial inflation in Tesla notes. It is factual and not biased,</p>	R

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
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<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
			misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	
Michael Hartzmark	Slide 13	See objection to Hartzmark Slide 11.	See Plaintiff's response to Defendants' objections to Slide 11.  This table is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays Prof. Hartzmark's testimony regarding the calculation of total artificial inflation in Tesla notes. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	R
Michael Hartzmark	Slide 14	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 15	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 16	Cumulative (Professor Heston has the same slide and the two experts should not be offering the same testimony)	Slide 16 is not cumulative because Dr. Hartzmark relies on Professor Heston's analysis. The chart contained within Slide 16 is integral to Dr. Hartzmark's opinion on damages and causation. it evidences the market's reaction to both the Financial	R

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Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
			Times article and Tweets on August 7, 2018. Thus, Dr. Hartzmark will use this slide to explain his opinion on causation, a central element of Plaintiff's claims.	
Michael Hartzmark	Slide 17	See objection to Hartzmark Slide 11.	See Plaintiff's response to Defendants' objections to Slide 11 as well as Plaintiff's response to Defendants' objections to the identical Prof. Heston slide.	R
Michael Hartzmark	Slide 18	See objection to Hartzmark Slide 11.	See Plaintiff's response to Defendants' objections to Slide 11  This table is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays Prof. Hartzmark's testimony regarding the Black-Scholes Merton model and implied volatilities for Tesla option contract maturity dates. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	R
Michael Hartzmark	Slide 19	See objection to Hartzmark Slide 11.	Plaintiff is not introducing the contents of this slide as an Exhibit.	R
Michael Hartzmark	Slide 20	Undisclosed new and unsupported opinion. Dr. Hartzmark has never considered the news on August 9 <sup>th</sup> as confounding information. Fed. R. Evid. 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009)	Defendants' objections to this slide as containing an undisclosed and unsupported opinion are belied by the fact that it cites the table's specific location in Dr. Hartzmark's Damages Report. <i>see</i> Table 6, p. 106. This was also discussed at his deposition. This slide	R

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Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
		(proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	and related testimony are neither new nor unsupported.	
Michael Hartzmark	Slide 21	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 22	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 23	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.  This table is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Hartzmark's testimony. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	R
Michael Hartzmark	Slide 24	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.	R

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Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
			This table is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Hartzmark's testimony. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	
Michael Hartzmark	Slide 25	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.  This table is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Hartzmark's testimony. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	R
Michael Hartzmark	Slide 26	See objection to Hartzmark Slide 11. Further, this slide contains hearsay not attributed to any particular speaker. Fed. R. Evid. 801.	See response to Defendants' objection to Hartzmark Slide 11.*	R

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Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
			This slide only contains a graph and does not include any quotes.	
Michael Hartzmark	Slide 27	See objection to Hartzmark Slide 11. Further, this slide contains hearsay not attributed to any particular speaker. Fed. R. Evid. 801. Undisclosed new and unsupported opinion. Dr. Hartzmark has never linked any particular information to changes in implied volatility during the class period. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	See response to Defendants' objection to Hartzmark Slide 11.*  Defendants' objections to this slide as containing undisclosed and unsupported opinion are belied by the fact that it cites the table's specific location in Dr. Hartzmark's Damages Report. <i>see</i> Hartzmark Damages Reports at pgs. 103, 131 n. 291, 132, 136. This was also discussed at his deposition. This slide and related testimony are neither new nor unsupported. The quote contained on the slide is from a Morgan Stanley report about the subject matter of this case.	R
Michael Hartzmark	Slide 28	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 29	See objection to Hartzmark Slide 11. Further, this slide contains hearsay not attributed to any particular speaker. Fed. R. Evid. 801. Undisclosed new and unsupported opinion. Dr. Hartzmark has never linked any particular information to changes in implied volatility during the class period. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify	See response to Defendants' objection to Hartzmark Slide 11.*  Defendants' objections to this slide as containing an undisclosed and unsupported opinion are belied by the fact that it cites the table's specific location in Dr. Hartzmark's Damages Report. <i>see</i> Hartzmark Damages Reports at pgs. 103, 131 n. 291, 132, 136. This was also discussed at his deposition. This slide and related testimony are neither new nor unsupported. The quote from the slide is from an analyst concerning the subject matter of this case and	

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Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
		"only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	is identified in Appendix 6 to Dr. Hartzmark's damages report.	
Michael Hartzmark	Slide 30	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 31	See objection to Hartzmark Slide 11. Further, this slide contains hearsay not attributed to any particular speaker. Fed. R. Evid. 801. Undisclosed new and unsupported opinion. Dr. Hartzmark has never linked any particular information to changes in implied volatility during the class period. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	See response to Defendants' objection to Hartzmark Slide 11.*  Defendants' objections to this slide as containing an undisclosed and unsupported opinion are belied by the fact that it cites to the table's specific location in Dr. Hartzmark's Damages Report. <i>see</i> Hartzmark Damages Reports at pgs. 103, 131 n. 291, 132, 136. This was also discussed at his deposition. This slide and related testimony are neither new nor unsupported. The quotes from the slide are from analysts concerning the subject matter of this case and is identified in Appendix 6 to Dr. Hartzmark's damages report.	R
Michael Hartzmark	Slide 32	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 33	See objection to Hartzmark Slide 11. Further, this slide contains hearsay not attributed to any particular speaker. Fed. R. Evid. 801. Undisclosed new and unsupported opinion. Dr. Hartzmark has never linked any particular information to changes in implied volatility during the class period. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th	See response to Defendants' objection to Hartzmark Slide 11.*  Defendants' objections to this slide as containing an undisclosed and unsupported opinion are belied by the fact that it cites to the table's specific location in Dr. Hartzmark's Damages Report. <i>see</i> Hartzmark Damages Reports at pgs. 103, 131 n. 291, 132, 136.	R



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Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
		Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	This was also discussed at his deposition. This slide and related testimony are neither new nor unsupported. The quotes from the slide are from analysts concerning the subject matter of this case and is identified in Appendix 6 to Dr. Hartzmark's damages report.	
Michael Hartzmark	Slide 34	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 35	See objection to Hartzmark Slide 11. Further, this slide contains hearsay not attributed to any particular speaker. Fed. R. Evid. 801. Undisclosed new and unsupported opinion. Dr. Hartzmark has never linked any particular information to changes in implied volatility during the class period. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	See response to Defendants' objection to Hartzmark Slide 11.*  Defendants' objections to this slide as containing an undisclosed and unsupported opinion are belied by the fact that it cites to the table's specific location in Dr. Hartzmark's Damages Report. <i>see</i> Hartzmark Damages Report, at pgs. 103, 131 n.291, 132, 136. This was also discussed at his deposition. This slide and related testimony are neither new nor unsupported. The quotes from the slide are from analysts concerning the subject matter of this case and is identified in Appendix 6 to Dr. Hartzmark's damages report.	R
Michael Hartzmark	Slide 36	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 37	See objection to Hartzmark Slide 11. Further, this slide contains hearsay not attributed to any particular speaker. Fed. R. Evid. 801.	See response to Defendants' objection to Hartzmark Slide 11.*	R

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Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
		Undisclosed new and unsupported opinion. Dr. Hartzmark has never linked any particular information to changes in implied volatility during the class period. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	Defendants' objections to this slide as containing an undisclosed and unsupported opinion are belied by the fact that it cites to the table's specific location in Dr. Hartzmark's Damages Report. <i>see</i> Hartzmark Damages Reports at pgs. 103, 131 n. 291, 132, 136. This was also discussed at his deposition. This slide and related testimony are neither new nor unsupported. The quote from the slide is from an analysts concerning the subject matter of this case and is identified in Appendix 6 to Dr. Hartzmark's damages report.	
Michael Hartzmark	Slide 38	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 39	See objection to Hartzmark Slide 11. Further, this slide contains hearsay not attributed to any particular speaker. Fed. R. Evid. 801. Undisclosed new and unsupported opinion. Dr. Hartzmark has never linked any particular information to changes in implied volatility during the class period. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	See response to Defendants' objection to Hartzmark Slide 11.*  Defendants' objections to this slide as containing an undisclosed and unsupported opinion are belied by the fact that it cites to the table's specific location in Dr. Hartzmark's Damages Report. <i>see</i> Hartzmark Damages Report at pgs., 103, 131 n.291, 132, 136. This was also discussed at his deposition. This slide and related testimony are neither new nor unsupported. The quotes from the slide are from analysts concerning the subject matter of this case and is identified in Appendix 6 to Dr. Hartzmark's damages report.	R
Michael Hartzmark	Slide 40	See objection to Hartzmark Slide 11.	See Plaintiff's response to Defendants' objections to Slide 11.	R

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Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
			<p>This chart is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Hartzmark's testimony. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.</p>	
Michael Hartzmark	Slide 41	<p>See objection to Hartzmark Slide 11. Further, this slide contains hearsay not attributed to any particular speaker. Fed. R. Evid. 801. Undisclosed new and unsupported opinion. Dr. Hartzmark has never linked any particular information to changes in implied volatility during the class period. FRE 702; <i>United States v. Deputee</i>, 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i>, 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i>, 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).</p>	<p>See response to Defendants' objection to Hartzmark Slide 11.*</p> <p>Defendants' objections to this slide as containing an undisclosed and unsupported opinion are belied by the fact that it cites to the table's specific location in Dr. Hartzmark's Damages Report. <i>see</i> Hartzmark Damages Report at pgs. 103, 131 n.291, 132, 136. This was also discussed at his deposition. This slide and related testimony are neither new nor unsupported. The quotes from the slide are from analysts concerning the subject matter of this case and is identified in Appendix 6 to Dr. Hartzmark's damages report.</p>	R
Michael Hartzmark	Slide 42	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R

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<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
Michael Hartzmark	Slide 43	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 44	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 45	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 46	See objection to Hartzmark Slide 11.	<p>See response to Defendants' objection to Hartzmark Slide 11.</p> <p>This graph is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Hartzmark's testimony. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury regarding the intraday trading prices and volume of Tesla common stock during the Class Period. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.</p>	R
Michael Hartzmark	Slide 47	See objection to Hartzmark Slide 11.	<p>See Plaintiff's response to Defendants' objections to Slide 11.</p> <p>This graph is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require</p>	R

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Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
			such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Hartzmark's testimony. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury regarding the minute-by-minute intraday trading prices and volume for Tesla common stock during the class period. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	
Michael Hartzmark	Slide 48	See objection to Hartzmark Slide 11.	See Plaintiff's response to Defendants' objections to Slide 11.  This graph is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Hartzmark's testimony. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury regarding the minute-by-minute intraday trading prices and volume for Tesla common stock during the class period. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	R
Michael Hartzmark	Slide 49	See objection to Hartzmark Slide 11.	See Plaintiff's response to Defendants' objections to Slide 11.	R

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
			This graph is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Hartzmark's testimony. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury regarding the minute-by-minute intraday trading prices and volume for Tesla common stock during the class period. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	
Michael Hartzmark	Slide 50	See objection to Hartzmark Slide 11.	See Plaintiff's response to Defendants' objections to Slide 11.  This graph is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Hartzmark's testimony. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury regarding the minute-by-minute intraday trading prices and volume for Tesla common stock during the class period.	R

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
			Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	
Michael Hartzmark	Slide 51	See objection to Hartzmark Slide 11.	<p>See Plaintiff's response to Defendants' objections to Slide 11.</p> <p>This graph is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Hartzmark's testimony. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury regarding the minute-by-minute intraday trading prices and volume for Tesla common stock during the class period. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.</p>	R
Michael Hartzmark	Slide 52	See objection to Hartzmark Slide 11.	<p>See Plaintiff's response to Defendants' objections to Slide 11.</p> <p>This graph is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays this</p>	R

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
			aspect of Prof. Hartzmark's testimony. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury regarding the total artificial inflation in Tesla common stock on each day during the class period. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	
Michael Hartzmark	Slide 53	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 54	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 55	See objection to Hartzmark Slide 11.	See Plaintiff's response to Defendants' objections to Slide 11.  This graph is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Hartzmark's testimony. It is factual and not biased, misleading, or incomplete. As an illustrative exhibit, it will be helpful to explain Prof. Hartzmark's testimony to the jury regarding direct and consequential artificial inflation in Tesla common stock during each day of the class period. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	R



**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
Michael Hartzmark	Slide 56	See objection to Hartzmark Slide 11.	See response to Defendants' objection to Hartzmark Slide 11.*	R
Michael Hartzmark	Slide 57	See objection to Hartzmark Slide 1. Further, this slide excerpts a portion of the Jeffries report that Dr. Hartzmark did not rely upon in his report. This is a new undisclosed opinion. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	See response to Defendants' objection to Hartzmark Slide 1.  Defendants' objections to this slide as containing an undisclosed and unsupported opinion are belied by the fact that the analyst reports cited in this slide are listed in Appendix 2 of Dr. Hartzmark's report.	
Michael Hartzmark	Slide 58	See objection to Hartzmark Slide 1. Further, this slide excerpts a portion of the Jeffries report that Dr. Hartzmark did not rely upon in his report. This is a new undisclosed opinion. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	See response to Slides 1 and 57.	R
Michael Hartzmark	Slide 59	See objection to Hartzmark Slide 1. Further, this slide excerpts a portion of an analyst report that Dr. Hartzmark did not rely upon in	See response to Slides 1 and 57. The August 13, 2018 Morningstar Analyst Report is referenced throughout	R

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
		his report. This is a new undisclosed opinion. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	the report and included in Appendix 2 to Dr. Hartzmark's report.	
Michael Hartzmark	Slide 60	See objection to Hartzmark Slide 1. Further, this slide shows an article that Dr. Hartzmark did not rely upon in his report. This is a new undisclosed opinion. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	See response to Defendants' objection to Hartzmark Slides 1 and 57.  Dr. Hartzmark relied upon the August 15, 2018, New York Times Article in this slide and it is listed in Appendix 14 to his report.	R
Michael Hartzmark	Slide 61	See objection to Hartzmark Slide 1. Further, this slide shows an article that Dr. Hartzmark did not rely upon in his report. This is a new undisclosed opinion. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify	See response to Defendants' objection to Hartzmark Slides 1 and 57.  Dr. Hartzmark relied upon the August 15, 2018, New York Times Article in this slide and it is listed in Appendixes 2, 3, 6, and 14 to his report.	R

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
		"only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).		
Michael Hartzmark	Slide 62	See objection to Hartzmark Slide 1.	See response to Defendants' objection to Hartzmark Slides 1 and 57.	R
Michael Hartzmark	Slide 63	This slide shows a document that Dr. Hartzmark did not rely upon in his report. This is a new undisclosed opinion. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	See response to Defendants' objection to Hartzmark Slide 1. Furthermore, the slide contains Exhibit 337, which has already been admitted into evidence.	R
Michael Hartzmark	Slide 64	This slide contains an article that improperly draws the legal conclusion that the words "funding secured" "helped propel Tesla's shares higher." To the extent the Court allows this slide, that inflammatory and false legal conclusion should be redacted. Further, Dr. Hartzmark did not rely upon this excerpt in his report. This is a new undisclosed opinion. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only	See response to Defendants' objection to Hartzmark Slide 1. Furthermore, the slide contains Exhibit 171, which has already been admitted into evidence. Prior objections to Exhibit 171 have been overruled.	R

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
		to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).		
Michael Hartzmark	Slide 65	See objection to Hartzmark Slide 63.	See response to Defendants' objection to Hartzmark Slide 1. Furthermore, the slide contains Exhibit 151, which has already been admitted into evidence.	R
Michael Hartzmark	Slide 66	See objection to Hartzmark Slide 63.	See response to Defendants' objection to Hartzmark Slide 1. Furthermore, the slide contains Exhibit 150, which has already been admitted into evidence.	R
Michael Hartzmark	Slide 67	See objection to Hartzmark Slide 63.	See response to Defendants' objection to Hartzmark Slide 1. Furthermore, the slide contains Exhibit 58, which has already been admitted into evidence.	R
Michael Hartzmark	Slide 68	See objection to Hartzmark Slide 63.	See response to Defendants' objection to Hartzmark Slide 1. Furthermore, the slide contains Exhibit 58, which has already been admitted into evidence.	R
Michael Hartzmark	Slide 69	See objection to Hartzmark Slide 63.	See response to Defendants' objection to Hartzmark Slide 1. Furthermore, the slide contains Exhibit 58, which has already been admitted into evidence.	R
Michael Hartzmark	Slide 70	See objection to Hartzmark Slide 1. This slide shows contains an article excerpt that Dr. Hartzmark did not rely upon in his report. This is a new undisclosed opinion. FRE 702; <i>United States v. Deputee</i> , 349 F. App'x 227, 229 (9th Cir. 2009) (proper to exclude opinion not previously disclosed); <i>Bollore, S.A. v. A &amp; A Smart Shopping</i> , 2002 WL 34699250, at *2 (C.D. Cal. June 10, 2002) (expert may testify "only to the opinions expressed in their reports or at deposition"); <i>R.D.C. v. Cnty. of Los Angeles</i> , 2016 WL 11759093, at *3 (C.D. Cal. June 28, 2016) (similar).	See Plaintiff's response to Defendants' objections to Slide 1. Dr. Hartzmark relied upon the Evercore analyst report in this slide, and it is listed in Appendix 2 to his report.	R

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
Michael Hartzmark	Slide 71	See objection to Hartzmark Slide 1.	See Plaintiff's response to Defendants' objections to Slide 1. This slide contains Exhibit 26, which is identical to Exhibit 130, which has already been admitted into evidence.	
Michael Hartzmark	Slide 72	No objection.		
Michael Hartzmark	Slide 73	No objection.		
Michael Hartzmark	Slide 74	No objection.		
Michael Hartzmark	Slide 75	No objection.		
Steve Heston <sup>1</sup>	Slide 1	No objection to Plaintiff using this demonstrative on direct examination; however, it is not evidence, cannot be admitted as an exhibit, and cannot be provided to the jury.	See Plaintiff's response to Defendants' objections to Dr. Hartzmark's Slide 11.*	O provided foundation is laid.
Steve Heston	Slide 2	See objection to Heston Slide 1.	See Plaintiff's response to Defendants' objections to Dr. Hartzmark's Slide 11.  This graph is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. A graph explaining the prices of standardized at-the-money-forward straddles will be helpful to explain Prof. Heston's testimony to the jury. This illustrative	O

<sup>1</sup> Steve Heston was an additional disclosure for Day 7, which Plaintiff disclosed on January 26, 2023 after finding out that the jury would be willing to stay late on January 27, 2023. Plaintiff is including the disclosures here for ease of the Court.

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
			exhibit fairly and accurately portrays this aspect of Prof. Heston's testimony. It is factual and not biased, misleading, or incomplete. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	
Steve Heston	Slide 3	See objection to Heston Slide 1.	See Plaintiff's response to Defendants' objections to Dr. Hartzmark's Slide 11.*	O
Steve Heston	Slide 4	See objection to Heston Slide 1.	See Plaintiff's response to Defendants' objections to Dr. Hartzmark's Slide 11.  This graph is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. A graph explaining the prices of standardized at-the-money-forward straddles will be helpful to explain Prof. Heston's testimony to the jury. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Heston's testimony. It is factual and not biased, misleading, or incomplete. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	O
Steve Heston	Slide 5	See objection to Heston Slide 1.	See Plaintiff's response to Defendants' objections to Dr. Hartzmark's Slide 11.*	O
Steve Heston	Slide 6	See objection to Heston Slide 1.	See Plaintiff's response to Defendants' objections to Dr. Hartzmark's Slide 11.*	O
Steve Heston	Slide 7	See objection to Heston Slide 1.	See Plaintiff's response to Defendants' objections to Dr. Hartzmark's Slide 11.	O

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

Witness	Ex.	Defendants' Objection	Plaintiff's Response	Ruling
			This chart is central to Plaintiff's damages theory, and it would be unfairly prejudicial to exclude this slide from the jury's consideration. Damages are a complex element of securities fraud cases and require such illustrations in order fully explain expert testimony and aid the jury in deciding. A chart explaining the Black-Scholes-Merton model implied volatilities will be helpful to explain Prof. Heston's testimony to the jury. This illustrative exhibit fairly and accurately portrays this aspect of Prof. Heston's testimony. It is factual and not biased, misleading, or incomplete. Furthermore, Pursuant to Fed. R. Evid 611, the Court has control over the mode of presenting evidence.	
Steve Heston	Slide 8	See objection to Heston Slide 1.	See Plaintiff's response to Defendants' objections to Dr. Hartzmark's Slide 11.*	O
Steve Heston	Slide 9	See objection to Heston Slide 1.	See Plaintiff's response to Defendants' objections to Dr. Hartzmark's Slide 11.*	O
Steve Heston	Slide 10	See objection to Heston Slide 1.	See Plaintiff's response to Defendants' objections to Dr. Hartzmark's Slide 11.*	O
Steve Heston	368, pgs 64-67	See objection to Heston Slide 1.	<p>The Court has already held that it is appropriate to admit CVs into evidence if they are adopted by the witness during testimony. ECF No. 606-1 ("O (if adopted by witness during testimony)").</p> <p>This is Prof. Heston's C.V., as initially annexed to his report exchanged in discovery. Plaintiff does <i>not</i> seek to introduce the entire report but only the attached C.V.</p>	O, provided it is incorporated by reference by witness.
Linda J. Rice	8	Already admitted.		

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
Linda J. Rice	9	Already admitted.		
Linda J. Rice	10	Already admitted.		
Linda J. Rice	11	Already admitted.		
Linda J. Rice	12	Already admitted.		
Linda J. Rice	13	Already admitted.		
Linda J. Rice	26	No objection.		
Linda J. Rice	53	Already admitted.		
Linda J. Rice	81	Already admitted.		
Linda J. Rice	82	Already admitted.		
Linda J. Rice	83	Already admitted.		
Linda J. Rice	89	Already admitted.		
Linda J. Rice	94	No objection.		
Linda J. Rice	96	Already admitted.		
Linda J. Rice	101	Already admitted.		
Linda J. Rice	102	Already admitted.		
Linda J. Rice	103	Already admitted.		



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**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
Linda J. Rice	121	Already admitted.		
Linda J. Rice	129	No objection.		
Linda J. Rice	130	Already admitted.		
Linda J. Rice	134	Already admitted.		
Linda J. Rice	135	Already admitted.		
Linda J. Rice	137	Already admitted.		
Linda J. Rice	139	Already admitted.		
Linda J. Rice	154	No objection.		
Linda J. Rice	164	No objection.		
Linda J. Rice	170	No objection.		
Linda J. Rice	171	Already admitted.		Redacted version per Court order.
Linda J. Rice	173	No objection.		
Linda J. Rice	184	Fed. R. Evid. 602, 801.	This is an email to the special committee, including Linda Rice dated August 14, 2018. Ms. Rice is cced on the email and therefore has personal knowledge of its contents. Additionally, plaintiff is not using the email for the truth of the matter asserted.	R
Linda J. Rice	201	Already admitted.		

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
Linda J. Rice	229	Already admitted.		
Linda J. Rice	289	Already admitted.		
Linda J. Rice	293	No objection.		
Linda J. Rice	294	No objection.		
Linda J. Rice	312	Already admitted.		
Linda J. Rice	313	Already admitted.		
Linda J. Rice	314	Already admitted.		
Linda J. Rice	315	Already admitted.		
Linda J. Rice	316	Already admitted.		
Linda J. Rice	317	Already admitted.		
Linda J. Rice	318	Already admitted.		
Linda J. Rice	321	Already admitted.		
Linda J. Rice	322	Already admitted.		
Linda J. Rice	361	Already admitted.		
Linda J. Rice	502	No objection.		
Linda J. Rice	519	No objection.		

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
Linda J. Rice	520	No objection.		
Linda J. Rice	614	Consistent with Judge Chen's Order, pages 2 and 3 must be removed from the exhibit. (Tr. at 1316:22-24.)	Plaintiff will comply with the Court's order with regards to pages 2 and 3.	O, provided prior Court ruling is complied with
Linda J. Rice	779	No objection.		
Linda J. Rice	786	No objection.		
Linda J. Rice	808	No objection.		
James Murdoch	8	Already admitted.		
James Murdoch	9	Already admitted.		
James Murdoch	10	Already admitted.		
James Murdoch	11	Already admitted.		
James Murdoch	12	Already admitted.		
James Murdoch	13	Already admitted.		
James Murdoch	26	No objection.		
James Murdoch	53	Already admitted.		
James Murdoch	81	Already admitted.		
James Murdoch	82	Already admitted.		

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
James Murdoch	83	Already admitted.		
James Murdoch	89	Already admitted.		
James Murdoch	94	No objection.		
James Murdoch	96	Already admitted.		
James Murdoch	101	Already admitted.		
James Murdoch	102	Already admitted.		
James Murdoch	103	Already admitted.		
James Murdoch	121	Already admitted.		
James Murdoch	126	No objection.		
James Murdoch	129	No objection.		
James Murdoch	130	Already admitted.		
James Murdoch	134	Already admitted.		
James Murdoch	135	Already admitted.		
James Murdoch	137	Already admitted.		
James Murdoch	139	Already admitted.		
James Murdoch	164	No objection.		

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
James Murdoch	165	This is Mr. Musk's call log. No objection to the extent Mr. Murdoch is questioned about his calls with Mr. Musk. Otherwise Fed. R. Evid. 602.	Plaintiff intends to use this exhibit solely for calls between Mr. Murdoch and Mr. Musk.	O, provided exhibit is narrowed.
James Murdoch	171	Already admitted.		Redacted version per Court order.
James Murdoch	229	Already admitted.		
James Murdoch	289	Already admitted.		
James Murdoch	312	Already admitted.		
James Murdoch	318	Already admitted.		
James Murdoch	321	Already admitted.		
James Murdoch	322	Already admitted.		
James Murdoch	361	Already admitted.		
James Murdoch	614	Consistent with Judge Chen's Order, pages 2 and 3 must be removed from the exhibit. (Tr. at 1316:22-24.)	Plaintiff will comply with the Court's order with regards to pages 2 and 3.	O, provided prior Court ruling is complied with
James Murdoch	786	No objection.		
Ira Ehrenpreis	8	Already admitted.		
Ira Ehrenpreis	9	Already admitted.		
Ira Ehrenpreis	10	Already admitted.		

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
Ira Ehrenpreis	11	Already admitted.		
Ira Ehrenpreis	12	Already admitted.		
Ira Ehrenpreis	13	Already admitted.		
Ira Ehrenpreis	26	No objection.		
Ira Ehrenpreis	53	Already admitted.		
Ira Ehrenpreis	81	Already admitted.		
Ira Ehrenpreis	82	Already admitted.		
Ira Ehrenpreis	83	Already admitted.		
Ira Ehrenpreis	89	Already admitted.		
Ira Ehrenpreis	94	No objection.		
Ira Ehrenpreis	96	Already admitted.		
Ira Ehrenpreis	101	Already admitted.		
Ira Ehrenpreis	102	Already admitted.		
Ira Ehrenpreis	103	Already admitted.		
Ira Ehrenpreis	121	Already admitted.		
Ira Ehrenpreis	129	No objection.		

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
Ira Ehrenpreis	130	Already admitted.		
Ira Ehrenpreis	134	Already admitted.		
Ira Ehrenpreis	135	Already admitted.		
Ira Ehrenpreis	137	Already admitted.		
Ira Ehrenpreis	139	Already admitted.		
Ira Ehrenpreis	154	No objection.		
Ira Ehrenpreis	164	No objection.		
Ira Ehrenpreis	170	No objection.		
Ira Ehrenpreis	171	Already admitted.		Redacted version per Court order.
Ira Ehrenpreis	173	No objection.		
Ira Ehrenpreis	201	Already admitted.		
Ira Ehrenpreis	229	Already admitted.		
Ira Ehrenpreis	289	Already admitted.		
Ira Ehrenpreis	312	Already admitted.		
Ira Ehrenpreis	318	Already admitted.		
Ira Ehrenpreis	321	Already admitted.		

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
Ira Ehrenpreis	322	Already admitted.		
Ira Ehrenpreis	361	Already admitted.		
Ira Ehrenpreis	614	Consistent with Judge Chen's Order, pages 2 and 3 must be removed from the exhibit. (Tr. at 1316:22-24.)	Plaintiff will comply with the Court's order with regards to pages 2 and 3.	O, provided prior court ruling is complied with
Ira Ehrenpreis	786	No objection.		
Kimbal Musk	8	Already admitted.		
Kimbal Musk	9	Already admitted.		
Kimbal Musk	10	Already admitted.		
Kimbal Musk	11	Already admitted.		
Kimbal Musk	12	Already admitted.		
Kimbal Musk	13	Already admitted.		
Kimbal Musk	26	No objection.		
Kimbal Musk	53	Already admitted.		
Kimbal Musk	81	Already admitted.		
Kimbal Musk	82	Already admitted.		
Kimbal Musk	83	Already admitted.		



**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
Kimbal Musk	89	Already admitted.		
Kimbal Musk	94	No objection.		
Kimbal Musk	96	Already admitted.		
Kimbal Musk	101	Already admitted.		
Kimbal Musk	102	Already admitted.		
Kimbal Musk	103	Already admitted.		
Kimbal Musk	121	Already admitted.		
Kimbal Musk	129	No objection.		
Kimbal Musk	130	Already admitted.		
Kimbal Musk	134	Already admitted.		
Kimbal Musk	135	Already admitted.		
Kimbal Musk	137	Already admitted.		
Kimbal Musk	139	Already admitted.		
Kimbal Musk	154	No objection.		
Kimbal Musk	164	No objection.		
Kimbal Musk	165	This is Elon Musk's call log. No objection to the extent Kimbal Musk is questioned about	Plaintiff intends to use this exhibit solely for calls between Mr. Murdoch and Mr. Musk.	O, provided proper

**In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)**  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

<b>Witness</b>	<b>Ex.</b>	<b>Defendants' Objection</b>	<b>Plaintiff's Response</b>	<b>Ruling</b>
		his calls with Elon Musk. Otherwise Fed. R. Evid. 602.		redactions are made.
Kimbal Musk	170	No objection.		
Kimbal Musk	171	Already admitted.		Redacted version per Court order.
Kimbal Musk	173	No objection.		
Kimbal Musk	201	Already admitted.		
Kimbal Musk	229	Already admitted.		
Kimbal Musk	289	Already admitted.		
Kimbal Musk	312	Already admitted.		
Kimbal Musk	318	Already admitted.		
Kimbal Musk	321	Already admitted.		
Kimbal Musk	322	Already admitted.		
Kimbal Musk	361	Already admitted.		
Kimbal Musk	614	Consistent with Judge Chen's Order, pages 2 and 3 must be removed from the exhibit. (Tr. at 1316:22-24.)	Plaintiff will comply with the Court's order with regards to pages 2 and 3.	
Kimbal Musk	786	No objection.		

***In re Tesla, Inc. Securities Litigation, Case No. 3:18-cv-04865-EMC (N.D. Cal.)***  
**Plaintiff's Witness and Exhibit List for Day 8 - January 31, 2023**

\* Plaintiff intends to introduce the following slides from Dr. Hartzmark as illustrative exhibits: 11, 12, 13, 18, 23, 24, 25, 40, 46, 47, 48, 49, 50, 51, 52, and 55.

Plaintiff intends to introduce the following slides from Prof. Heston as illustrative exhibits: 2, 4, and 7.